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11 Attorneys for Defendants DELL INC. and DELL
12 FINANCIAL SERVICES LLC

13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA
15

16 ROSE MAGYAR, on behalf of herself and
all others similarly situated,

17 Plaintiff,

18 vs.
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20 DELL INC. and DELL FINANCIAL
SERVICES LLC,

21 Defendants.
22

Case No. 3:12-cv-01899-H-RBB

**DEFENDANT DELL INC.'S AND DELL
FINANCIAL SERVICES LLC'S NOTICE
OF MOTION AND MOTION TO COMPEL
ARBITRATION**

Date: January 22, 2013
Time: 10:30 a.m.
Courtroom: 15A
Judge: Marilyn L. Huff

1 TO PLAINTIFF AND HER ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, on January 22, 2013, at 10:30 a.m., or as soon thereafter as
3 the matter may be heard, in Courtroom 13, before the Honorable Marilyn L. Huff, defendants
4 Dell Inc. and Dell Financial Services LLC shall and hereby do move the Court, pursuant to the
5 Federal Arbitration Act, 9 U.S.C. § 3, for an Order dismissing or staying this action and
6 compelling Plaintiff Rose Magyar (“Ms. Magyar”) to pursue all of her claims in arbitration.¹

7 This Motion is based upon this Notice of Motion and Motion, the accompanying
8 Memorandum of Points and Authorities, the Declaration of Stephen J. Snyder, and all of the
9 pleadings, records, and papers on file herein, as well as such other oral or documentary evidence
10 as may be presented at or before the time of the hearing of this Motion.

11 Dated: December 17, 2012

REEVES & BRIGHTWELL LLP

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13 By: /s/ Paul Schlaud

14 Paul Schlaud

Sinéad O’Carroll

15 Attorneys for Defendants
16 DELL INC. and DELL FINANCIAL
17 SERVICES LLC

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26 ¹ Courts in this Circuit treat a motion to stay or dismiss in favor of arbitration as a “non-
27 enumerated Rule 12(b) motion.” *Inlandboatmens Union of the Pacific v. Dutra Group*, 279 F.3d
28 1075, 1078 n.2 (9th Cir. 2002) (internal quotation omitted); *see also Previti v. Nat’l Union Fire*
Ins. Co. of Pitt., No. EDCV 12-00704 DDP, 2012 WL 3257877, at *3 n.5 (C.D. Cal. Aug. 7,
2012).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROSE MAGYAR, on behalf of herself and
all others similarly situated,

Plaintiff,

vs.

DELL INC., and DELL FINANCIAL
SERVICES LLC,

Defendants.

Case No. 3:12-cv-01899-H-RBB

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a United States citizen, over the age of 18 years and not a party to this action. On December 17, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that all counsel of record who are deemed to have consented to electronic service are being served this day with a copy of this document via the Court's CM/ECF system. Any other counsel of record will be served by facsimile transmission and/or first class mail.

Dated: December 17, 2012

/s/Paul Schlaud

Paul Schlaud